

CHEMCLENE SITE DEFENSE GROUP

C/O LANGSAM STEVENS & MORRIS LLP
1616 WALNUT STREET - SUITE 812
PHILADELPHIA, PENNSYLVANIA 19103
215-732-3255
FAX 215-732-3260

ORIGINAL



SDMS DocID 2194628

August 17, 1998

Linda R. Dietz, 3HS21
Remedial Project Manager
U.S. Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

Re: Malvern/Chemclene TCE Superfund Site ("Site")

Dear Ms. Dietz:

Thank you for extending the deadline for submitting a response to Abraham Ferdas' letter and attachments dated May 4, 1998 (the "Special Notice Letter"). Accordingly, this letter is the response of the parties identified on the attached list (the "Chemclene Site Defense Group" or "Group").

The Group's response is a good faith proposal to conduct or finance an appropriate remedial action at the Site under circumstances that are fair and reasonable. In offering this proposal the Group is not waiving any rights it may retain to contest elements of the Record of Decision ("ROD") for the Site or any determinations that pertain to the alleged liability of Members of the Group for response costs or any other liability at, or related to, the Site. Moreover, neither this correspondence nor any Group member's participation in any negotiations related to the Site are to be construed as an admission of liability or responsibility for any conditions at or related to the Site, or for any costs allegedly incurred by the United States or any other government agency with respect to the Site. The Group's detailed responses to the issues raised in your letter follow.

1. Financial Ability To Implement The Requirements Of The ROD And Proposed Consent Decree

The Group hereby states its willingness to negotiate with EPA in good faith regarding a Consent Decree or an Administrative Order On Consent under which the Group would conduct or finance the RD and the RA selected in the ROD which would be optimized by the results of a ROD review project that the Group is already preparing to fully fund and conduct.

In furtherance of this objective, the Group has retained a consultant to assist its members in responding to EPA, and the Group is in the process of retaining another consultant to commence pre-design activities in furtherance of the objectives set forth in the ROD. With regard to any financial ability determination, it is a fundamental concern of the Group that the United States apply to actual remediation-related activities, any funds that might be generated from a *de minimis* or other settlement, or from any other source, including Chemcene, Springridge Management Corporation, any related entities and their principals.

2. Technical Capability To Conduct The Work

The Group is composed of almost all of the parties that EPA has identified as non-*de minimis*, and certain of the parties that EPA has identified as *de minimis* in its Volumetric Ranking Summary ("VRS") that was attached to the Special Notice Letter. The Group has retained de maximis, inc. to assist its members in responding to EPA. To that end, the Group, with the assistance of de maximis, inc., prepared a Request For Proposal which will be used to select a consultant to complete the pre-design activities necessary to determine the specific unit operations and costs required to design and implement a remedy that will protect human health and the environment from any actual or threatened release of any hazardous substances at the Site. Moreover, because many of the Group's members have worked cooperatively with EPA to remediate other contaminated sites under RCRA and CERCLA, the Group has the experience and the ability to conduct the work in a cost-effective manner.

3. Oversight And EPA's Past Response Costs

Subject to the negotiation of an appropriate Consent Decree or an Administrative Order On Consent, the Group is willing to conduct or finance the RD and the RA selected in the ROD as optimized by the results of the aforementioned ROD review project. However, based on the holding of the Third Circuit Court of Appeals in *U.S. v. Rohm & Haas*, the Group is not willing to reimburse EPA for costs incurred in overseeing performance of the work. Subject to negotiation, the Group is willing to reimburse EPA for some portion of its past costs, provided that such reimbursement: (1) is consistent with the law, *e.g.* that the costs for which reimbursement is sought are not inconsistent with the National Contingency Plan, (2) reflects appropriate relief in accordance with EPA policy on orphan shares or any other policy that would eliminate or reduce any obligation to reimburse EPA for its pasts costs, (3) is appropriately allocated to the Group, and (4) is supported by appropriate documentation including sufficient detail to permit the Group to review and understand the nature and extent of each requested item for reimbursement. Moreover, the Group re-emphasizes its concern that any funds that are generated from a *de minimis* or other settlement, or from any other source, including Chemcene, Springridge Management Corporation, any related entities and their principals, be applied to fund remediation-related activities at the Site. Accordingly, the Group states its willingness to negotiate

Linda R. Dietz
August 17, 1998
Page 3

CHEMCLENE SITE DEFENSE GROUP

with the EPA in good faith to settle EPA's claims for costs it has incurred in connection with federally-funded response actions at the Site.

4. The Proposed Consent Decree And The Proposed Administrative Order

The Group is currently reviewing the proposed consent decree and administrative order and will provide comments thereon in the near future.

In conclusion, the Group affirms its good faith offer to work with EPA and other stakeholders to achieve a successful, cost-effective clean-up of the Site. We look forward to meeting with you and other EPA officials to resolve amicably any remaining issues so that the clean-up may proceed in a timely manner. Please contact me at your convenience if you have any questions or require anything further.

Very truly yours,

CHEMCLENE SITE DEFENSE GROUP

A handwritten signature in black ink, appearing to read 'Mark Stevens', with a long horizontal flourish extending to the right.

Mark A. Stevens / for the Group

cc: J. Johnson, Esquire

The Chemcene Site Defense Group is composed of the following parties listed on the VRS dated May 4, 1998:

Action Manufacturing Company
Alcoa
Armstrong Cork (Armstrong World Industries)
Aydin Corporation
Beckett Corp.
Burroughs Corp./Sperry Univac
Cabot Berylco
Cyprus Foote Mineral
Delbar Products
Eldredge, Inc.
Fisher & Porter Co./Andrews Glass
General Electric (Lockheed Martin)
General Motors Corporation
Hamilton Precision Metals
Hamilton Technology Inc.
Hamilton Watch Co.
Handy & Harmon Tube

Keystone Block
KIM Manufacturing
La France Corporation
Moore Products
NW Controls
Penflex, Inc.
Plymouth Tube
PP&L Northern
Porter Instruments
RCA
Reilly Plating
Simon Wrecking Co.
Syntex Grouping/A. S. Koch
Times Mirror/Morning Call
USG Grouping
Vishay Resistive Systems Inc.
VIZ
Western Electric